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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICHARD ROWE

Appeal 2007-1910
Application 09/631,855
Technology Center 3600

Decided: June 30, 2008

Before HUBERT C. LORIN, JENNIFER D. BAHR, and
ANTON W. FETTING, *Administrative Patent Judges*.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Richard Rowe (Appellant) seeks our review under 35 U.S.C. § 134 of the final rejection of claims 1-22, 25, and 26.[1] Claims 23 and 24 have been cancelled. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

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[1] Our decision will make reference to the Appellant's Appeal Brief ("Appeal Br.," filed Oct. 10, 2006), the Examiner's Answer ("Answer," mailed Dec. 1, 2006) and to the Reply Brief ("Reply Br.," filed Feb. 1, 2007).

SUMMARY OF DECISION

We REVERSE.

THE INVENTION

The Appellant's claimed invention is to a gaming method and system for sorting and reconciling vouchers accepted by a gaming machine. (Specification 4:2-3).

Claims 1 and 9, reproduced below, are representative of the subject matter on appeal.

> 1. A method, implemented on a gaming system including at least one gaming machine, of utilizing a voucher in the gaming system comprising the steps of:
>
> issuing at least one cash voucher having a particular cash value associated therewith;
>
> accepting by said at least one gaming machine said at least one cash voucher;
>
> crediting said particular cash value to a player of said at least one gaming machine;
>
> generating a record regarding said at least one accepted cash voucher,
>
> storing said at least one cash voucher in said at least one gaming machine;
>
> retrieving one or more cash vouchers from said at least one gaming machine; and
>
> comparing information from said one or more retrieved cash vouchers to information regarding said at least one accepted cash voucher contained in said record.
>
> 9. In a gaming system including at least one gaming machine arranged to accept both bill monies and cash vouchers and store accepted bill monies and cash vouchers with one another, a soft

count system for reconciling cash vouchers accepted by said at least one gaming machine with cash vouchers retrieved by said at least one gaming machine comprising:

at least one data storage element for storing data regarding accepted cash vouchers, including a value of said accepted cash vouchers;

a sorting mechanism arranged to sort bill monies and cash vouchers retrieved from said at least one gaming machine, and

a scanner for reading information associated with said cash vouchers.

THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Luciano	US 6,500,067 B1	Dec. 31, 2002
LeStrange	US 5,470,079	Nov. 28, 1995

The following rejection is before us for review:

1. Claims 1-22, 25, and 26 are rejected under 35 U.S.C. § 103(a) as unpatentable over Luciano and LeStrange.

ISSUES

The issue is whether the Appellant has shown that the Examiner erred in rejecting claims 1-22, 25, and 26 as unpatentable over Luciano and LeStrange. The central issue in this appeal is whether the cited references describe a machine that stores, retrieves, and reconciles cash vouchers. Storing vouchers is particularly relevant to independent process claims 1 and 25 and machine claims 9 and 17. Claims 17 and 25 further include a storage

container. Independent process claim 14 does not explicitly require a storing step. However, all the independent claims 1, 9, 14, 17, and 25 include a retrieving limitation.

FINDINGS OF FACT

We find that the following enumerated findings are supported by at least a preponderance of the evidence. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Office).

Claim construction

1. Various claims call for "storing" vouchers. All the claims call for "retrieving" vouchers.
2. The Specification does not provide a specific definition for "storing" and "retrieving."
3. The ordinary and customary meaning of "store" is "to put aside, or accumulate, for use when needed." (*See Webster's New World Dictionary* 1322 (3rd Ed. 1988)(Entry 1. for "store.")).
4. The ordinary and customary meaning of "retrieve" is "to get back; recover" (*See Webster's New World Dictionary* 1147 (3rd Ed. 1988)(Entry 1. for "retrieve")).

The scope and content of the prior art

5. Luciano is directed to gaming machines that read vouchers.
6. LeStrange is directed to gaming machines comprising an accounting system.

Any differences between the claimed subject matter and the prior art

7. The difference between the claimed subject matter and the cited prior art is that the claimed subject matter includes limitations to storing and retrieving vouchers which, given their ordinary and customary meaning, the prior art does not describe.

The level of skill in the art

8. Neither the Examiner nor the Appellant has addressed the level of ordinary skill in the pertinent art of gaming machines using vouchers. We will therefore consider the cited prior art as representative of the level of ordinary skill in the art. *See Okajima v. Bourdeau,* 261 F.3d 1350, 1355 (Fed. Cir. 2001) ("[T]he absence of specific findings on the level of skill in the art does not give rise to reversible error 'where the prior art itself reflects an appropriate level and a need for testimony is not shown'") (quoting *Litton Indus. Prods., Inc. v. Solid State Sys. Corp.*, 755 F.2d 158, 163 (Fed. Cir. 1985).

Secondary considerations

9. There is no evidence on record of secondary considerations of non-obviousness for our consideration.

PRINCIPLES OF LAW

"Section 103 forbids issuance of a patent when 'the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.'" *KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727,

1734 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, and (3) the level of skill in the art. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). *See also KSR*, 127 S.Ct. at 1734 ("While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.") The Court in *Graham* further noted that evidence of secondary considerations "might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented." 383 U.S. at 17-18.

ANALYSIS

The Appellant, in the Appeal Brief, argued that the Examiner failed to show the storing and retrieving limitations of the claims. (App. Br. 8-12.) The Examiner responded by arguing that the storing limitation was disclosed in Luciano in the Abstract; Fig. 6; Fig. 9 ("Hold Voucher"); Fig. 10; and, Fig. 5 ("Voucher/Currency Reader") and the retrieving limitation was disclosed in (a) Luciano because Luciano stores vouchers (Answer 13: "since Luciano stores, it is obvious that Luciano retrieves") and (b) LeStrange, col. 2, line 39 – col. 3, line 5. (Answer 13 and 15-16.)

We have carefully reviewed the cited references and the figures and passages the Examiner has referred to. We are unable to find any mention or suggestion of storing and/or retrieving vouchers as those terms are used in the claims, given their ordinary and customary meaning as they would be interpreted by one of ordinary skill in the art. (*See* FF 3 and 4.)

The Luciano disclosures referred to by the Examiner as showing storing of vouchers describe reading the vouchers. They are held momentarily so they can be read but they are not stored, and they are not stored for later retrieval as required by the claims. Because we do not find that Luciano describes storing the vouchers, the Examiner's argument that Luciano must then inherently disclose retrieving the vouchers necessarily falls. As to LeStrange, the passage referred to by the Examiner as describing retrieving vouchers discusses the prior art and an apparent requirement in the industry to "retrieve" coupons from a currency box of gaming machines equipped with coupon readers for later auditing. The retrieving that LeStrange speaks to is more accurately a manual step of collecting coupons discarded from the gaming machine that had earlier read them. The claimed subject matter, by contrast, calls for the gaming machine to retrieve stored vouchers (claims 1, 14, 17, and 25) accepted by that gaming machine for later processing (claim 9: "sorting") by that machine. LeStrange does not describe retrieving the vouchers in the context of the claimed invention.

The decision of the Examiner is reversed.

CONCLUSIONS OF LAW

We conclude the Appellant has shown that the Examiner erred in rejecting claims 1-22, 25, and 26 as unpatentable over Luciano and LeStrange.

DECISION

The decision of the Examiner to reject claims 1-22, 25, and 26 is reversed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2007).

REVERSED

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